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May 11, 2006

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Rumsfeld:

I have been informed that the Defense Department recently decided to prohibit an American contractor from using a military border crossing to deliver essential fuels to Iraq from Kuwait. Given the importance of fuel to the stability and economy of Iraq, I request an explanation for the Defense Department's new policy.

The information I received comes from a U.S. company called Lloyd-Owen International (LOI). Since June 29, 2004, LOI has delivered nearly 400 million gallons of gasoline to Iraq from Kuwait under a contract with Iraq's State Oil Marketing Organization (SOMO).¹ SOMO purchases the gasoline directly from Kuwait's state-owned oil company, the Kuwait Petroleum Corporation, and LOI manages the transportation of the gasoline.

According to Alan Waller, the CEO of LOI, the Defense Department decided on April 14 to block LOI's access to the only military border crossing between Kuwait and Iraq. The Department is refusing to allow LOI to use the crossing after May 25 without Defense Department identification cards for each employee that would use the crossing. However, the Department refuses to issue the identification cards to LOI employees because they are not operating under a Defense Department contract.

Mr. Waller says that denying LOI access to the military crossing would prevent LOI from meeting Iraq's fuel needs. According to Mr. Waller, "Logistically, practically, it's just impossible" to use the civilian crossing because it takes 30 minutes per truck to pass through the Kuwaiti border process and another 30 to 60 minutes to pass through the Iraqi process.² At this rate, it would not be possible for a convoy of 250 fuel trucks to pass through the border each day.

¹ E-mail from Alan J. Waller (May 3, 2006).

² Senate Democratic Policy Committee, *An Oversight Hearing on Waste, Fraud, and Abuse in U.S. Government Contracting in Iraq* (June 27, 2005).

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This is a serious matter because a policy that prevents LOI fuel convoys from reaching Iraq could have adverse ramifications. In Mr. Waller's opinion, "it would cause massive instability."³ In a submission to Pentagon auditors, the Army Corps of Engineers referred to long gas lines in Iraq as a "fuel crisis" and noted that the "lines were a visible symptom of the failure of the Coalition Forces to maintain order or restore basic services to the Iraqi people."⁴ The Corps of Engineers also stated that "[a]dequate fuel was considered to be essential to economic recovery of the country" and "[l]ack of fuel was directly related to country instability."⁵

This is not the first time that LOI's use of the military border crossing has been impeded. Along with Senators Dorgan and Lautenberg, I wrote to you in July 2005, after the Defense Department and Halliburton denied LOI access to the border crossing.⁶ In response to that letter, the Army explained: "LOI and other SOMO contractors have been allowed to use the military border crossing on a regular basis, but the [Army] and [Kuwait Ministry of the Interior] retain the discretion and authority to prohibit movement of traffic through the military border crossing when necessary."⁷ The Department subsequently permitted LOI to continue using the crossing.

In light of the potential consequences of a fuel shortage in Iraq, I would like an explanation for the new policy of the Defense Department. Please explain why the Department has now decided to exercise its "discretion and authority" to prohibit LOI from using the military border crossing. Also, please address whether this new policy of prohibiting SOMO contractors from using the crossing enhances U.S. security and reconstruction efforts in Iraq.

With the serious security and reconstruction challenges facing the U.S. in Iraq, a gasoline shortage caused by a flawed border crossing policy must be avoided. Because of the time-sensitive nature of this situation, I request a prompt response to my questions.

Sincerely,



Henry A. Waxman
Ranking Minority Member

³ *Id.*

⁴ U.S. Army Corps of Engineers, *Information Paper: Business Case by USACE for the Use of Altamnia as a Supplier of Fuel under the RIO Contract* (Jan. 6, 2004).

⁵ *Id.*

⁶ Letter from Rep. Henry A. Waxman, Senator Byron L. Dorgan, and Senator Frank Lautenberg to Donald H. Rumsfeld, Secretary of Defense (July 21, 2005).

⁷ Letter from U.S. Army Field Support Command to Rep. Henry A. Waxman (Sept. 15, 2005).